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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,269

12/08/2003

John T. Britt

COE-564

3258

30046

7590

03/02/2009

Albuquerque Engineer District

ATTN: CESPAC-OC

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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

03/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,269	<b>Applicant(s)</b> BRITT, JOHN T.	
	<b>Examiner</b> CHRISTOPHER R. BUCHANAN	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US 6,574,561) in view of Curkendall (US 6,346,885).

Regarding claim 1, Alexander discloses a system for managing information and collection of samples at remote locations including a client-server system (10, Fig. 1) comprising at least one portable device (12, col. 7 line 37+) having some capabilities of a personal computer, wherein the portable device may be used for collecting, preserving, integrating, processing, and communicating some of the information (col. 7 line 55+), at least one computer (26, 28, col. 10 line 5+), wherein the computer communicates with the portable device and may function as said server to process data and run software applications, at least one instrumentation device (camera, etc., col. 8 line 60-65) for collecting some of said samples (images, bar codes, biometric data, col. 8 line 60-65) that communicates directly with the portable device, at least one hardware interface employed between the portable device and instrumentation device (inherent since two devices are connected and operating), at least one software interface employed between the portable device and instrumentation device (inherent since two

Art Unit: 3627

devices are connected and operating), at least one software program for running a geographic information system (col. 8 line 35-40, GPS), and at least one communications device (24, internet, 18, communication network, wireless hardware) that facilitates communication between the portable device, the computer, and the instrumentation device.

The system of Alexander differs from the claimed invention in that it does not include a device to provide coded labels to facilitate tracking of samples.

Curkendall discloses a system for managing information and collection of samples at remote locations (see abstract) including a device to provide coded labels to facilitate tracking of samples (col. 10 line 55-57).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Alexander to include a device to provide coded labels for samples, as taught by Curkendall, to enable efficient, accurate gathering, cataloging, and communication of field data (see Curkendall, col. 1 line 14-21, Alexander, abstract).

Regarding claim 2, the communications device is a wireless device (Alexander, col. 8 line 20+). Regarding claim 3, the instrumentation device is a digital camera. Regarding claim 4, the information could come from a variety of sources, including data entry forms, GPS data, audio, etc. Regarding claims 5 and 6, the portable device and computer could be a PDA, laptop, mainframe, etc. Regarding claim 7, bar codes are a well-known means for inventorying items and the printer could provide this. Regarding claims 8-18, the features of the invention recited in these claims have already been addressed in the rejection above. Furthermore, features such as the particular means

Art Unit: 3627

for identifying and managing (merging, tagging, time stamping, etc.) data or samples, the particular type and details of the software used, and particular nature of the data are matters of design choice since they do not affect the nature or functioning of the invention and do not solve any stated problem or serve any particular purpose.

### ***Response to Arguments***

3. Applicant's arguments filed December 5, 2008 have been fully considered but they are not persuasive. Applicant argues that the prior art references do not disclose all the recited features of the claimed invention, in particular, that the prior art does not show automated collection of samples, various hardware and software interfaces, barcode stamps, or readers. Applicant also argues that there is no motivation to combine the teachings of the prior art references and that the inventions of the prior art are non-analogous art.

The examiner disagrees and stands by the rejection. The rejection above has been revised to address the newly added limitation drawn to collecting samples and to point out where motivation for combining the prior art teachings can be found. The others features are also addressed in the rejection. In the examiner's view, the inventions of the prior art references, which are related to automated gathering of samples at geographically remote locations, are directly related to the claimed invention and would constitute analogous art. Lastly, the affidavit submitted on December 5, 2008 has been reviewed and considered by the examiner, but has not altered the examiner's stand on the rejection.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER R. BUCHANAN whose telephone number is (571)272-8134. The examiner can normally be reached on Mon.-Fri. 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. R. B./  
Examiner, Art Unit 3627

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627